

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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KELLY MANITERIS,
Plaintiff,

2:11-CV-00045-PMP-PAL

vs.

ORDER RE: DOC #81

WAL-MART STORES, INC., A
Delaware corporation, et al.,
Defendants.

Before the Court for consideration is Plaintiff's Motion to Strike Defendant Wal-Mart Stores, Inc.'s Rebuttal Expert Witness Disclosure of Steven L. McIntire, M.D. (Doc. #81). Having considered the arguments set forth in the fully briefed Motion, as well as the arguments presented at the hearing conducted August 7, 2012, the Court finds Plaintiff's Motion to Strike (Doc. #81) must be denied.

Specifically, Dr. McIntire's medical expertise and opinions relate to his field of practice as a neurologist. By comparison, Defendant's expert medical witness, Dr. Patrick Brandner, will offer testimony within the scope of his expertise in orthopedic medicine. The simple fact that they agree that Plaintiff was not significantly injured as a result of the accident at issue in this case does not render their testimony "cumulative." Additionally, it appears that in this case Plaintiff has not disclosed expert reports, opinions or records of Plaintiff's medical expert, but has instead identified Plaintiff's treating physicians as "experts." The Court finds no basis at this stage to preclude Dr. McIntire from offering

1 expert opinion testimony concerning treatment provided by Plaintiff's treating physicians.

2 **IT IS THEREFORE ORDERED** that Plaintiff's Motion to Strike Defendant
3 Wal-Mart Stores, Inc.'s Rebuttal Expert Witness Disclosure of Steven L. McIntire, M.D.
4 (Doc. #81) is **DENIED**.

5 DATED: December 18, 2012.

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8 PHILIP M. PRO
9 United States District Judge
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